

**Testimony before the Michigan House of Representatives
on House Bill 4264**

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My name is Laura Sager and I am executive director of the Citizens Alliance on Prisons and Public Spending, or CAPPS, a nonprofit research and public policy organization.

Thank you, Representative Cotter and members of this committee for the opportunity to discuss why you should table action on House Bill 4264. Our six reasons are not related to the appropriateness of any particular punishment for the crime under discussion. Rather, we are here to provide information about the consequences of both discretionary consecutive sentencing and pursuing a piecemeal approach to sentencing policy.

1. First, while we applaud your efforts to protect vulnerable adults from exploitation, HB 4624 will not help you achieve that goal.

Research shows that swift and sure sanctions are more effective deterrents to crime than simply lengthening sentences. Research also shows that lengthening sentences has little effect on recidivism.

2. What HB 4264 *will* do is contribute to Michigan's inordinately long and expensive average prison length of stay.

As many of you know from your other committee work, both the House Criminal Justice Committee and the House Appropriations Subcommittee on Corrections are discussing Michigan's sentencing practices and related length of stay issues.

That's because Michigan's average prison length of stay is already far longer than that of other states. A recent Pew Center on the States report found Michigan's 2009 average prison length of stay was the longest of any of the 35 states Pew studied. We have provided a brochure with a chart summarizing Pew's findings for your convenience.

Our extraordinarily long prison stays cost taxpayers hundreds of millions of dollars every year. That is money that could be invested in law enforcement and other programs proven to reduce crime.

3. Concurrent sentencing is the norm in Michigan.

HB 4264 gives judges the option to impose consecutive sentences. However, the norm in Michigan is concurrent sentencing. Under concurrent sentencing, the longest sentence – the one imposed for the most serious crime – is the controlling sentence.

With some exceptions, Michigan's legislature has traditionally adhered to the principle that consecutive sentencing should be reserved for crimes where it is justified by unique circumstances. For example, sentences for crimes committed by people while they are incarcerated or on parole are served consecutively.

4. HB 4264 is not necessary.

Michigan uses a much more precise tool than consecutive sentencing to ensure that the punishment fits the crime and the individual defendant. The sentencing guidelines take into account the facts of the offense, the number of repeat offenses, and whether there were multiple victims, among many other variables. These include whether the crime was committed against a vulnerable person.

Judges can choose a minimum sentence at the high end of the range provided by the guidelines and they can impose even longer sentences, if they have "substantial and compelling reasons" to do so.

Prosecutors exercise their discretion by determining the nature and number of charges they bring in cases. Multiple charges provide prosecutors with more leverage in plea negotiations. They also increase the guidelines scores that determine sentence lengths. Prosecutors' charging discretion is not subject to appellate review.

Thus, both judges and prosecutors have the tools to address the worst cases, within the existing guidelines structure.

5. Discretionary consecutive sentencing undermines the legislative intent behind Michigan's sentencing guidelines system.

Our sentencing guideline system was created to address problems of proportionality and disparity in sentencing.

The guidelines structure judges' sentencing discretion so that similar defendants who commit similar crimes face relatively similar punishments. While any crime harms victims and society, sentencing guidelines were developed to establish rational variations in punishment based on the degree and kind of harm. And, while judges can depart above the guidelines, they have to provide objective reasons that are subject to appellate review.

Discretionary consecutive sentencing introduces a "wild card" that trumps the guidelines, multiplying sentence lengths without regard for either consistency in sentencing between defendants or proportionality among sentences for different types of crimes. The result will be wide differences in sentences imposed from judge to judge and county to county.

This not only undermines the legislative intent behind the guidelines, it undermines the credibility and fairness of the system as a whole. It is also enormously expensive.

6. Modifying sentences piecemeal seriously distorts the guidelines system over time.

Approaching sentencing policy on a crime-by-crime basis inevitably drives up the average prison length of stay and, consequently, corrections spending.

There is no principled reason required for establishing discretionary consecutive sentencing for one crime vs. another, no objective inquiry to ensure that expensive prison beds are reserved for the worst offenders, and no finding that this is the most cost-effective way to increase public safety.

That is precisely why many states have established nonpartisan sentencing commissions to update their sentencing systems.

Sentencing commissions study the system as a whole and make recommendations for revisions based both on sensitivity to victims and evidence-based approaches to crime and punishment.

These commissions provide a forum where all the interested parties can provide extensive input into recommendations before they are even considered by the legislature. This helps to moderate the influence of headlines on decisions that will have long-term human and fiscal consequences.

In conclusion, I want to emphasize that we all want to protect vulnerable citizens. But HB 4264 is simply not the most effective or prudent way to do so.

Therefore, I urge you to consider a moratorium on enacting HB 4264 and any similar measures until they can be evaluated in light of national sentencing norms and evidence-based, cost-effective approaches to public safety.

Thank you all very much for considering my remarks on this clearly well intentioned bill.

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